

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016058
Issue No.: 3006, 3000
Case No.: [REDACTED]
Hearing Date: June 04, 2015
County: Oakland (4) North Saginaw

ADMINISTRATIVE LAW JUDGE: Colleen Lack

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on June 4, 2015, from Lansing, Michigan. The Department was represented by [REDACTED], Eligibility Specialist.

Participants on behalf of Respondent included [REDACTED].

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In this case, the evidence does not establish that the Department has actually taken any action regarding the suspected Food Assistance Program (FAP) overissuance (OI). It was uncontested that the suspected FAP OI is based on the Department's failure to timely act on a reported income change. However, the evidence does not show that the Department has followed the procedures set forth in policy, such as a referral to a Recoupment Specialist or determination of an OI amount. See BAM 700, May 1, 2014. The November 14, 2014, letter issued to Respondent only stated that if a FAP OI occurred, and benefits that are already on her card are used, Respondent may be responsible for paying back FAP benefits.

There is no jurisdiction for an administrative hearing at this point because there is insufficient evidence to establish that the Department has actually taken an action regarding the suspected FAP OI.

If the Department determines that they are going to take an action regarding the suspected FAP OI, a written notice would be issued to Respondent. A timely hearing request may be filed at that time.

Therefore, the request for hearing is **DISMISSED** for lack of jurisdiction.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **6/29/2015**

CL/jaf

NOTICE: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

cc:

